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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

6 JAN 1979

LOK SABHA

The following Bills were introduced in Lok Sabha on the 28th August, 1970:—

BILL NO. 78 OF 1970.

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1970. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 163 of the Constitution, the following *Explanation* shall be inserted at the end, namely:— Amendment of article 163.

"*Explanation.*—In this article the expression "aid and advise" shall not empower or entitle the Chief Minister to aid or advise the Governor of the State in matters relating to appointment of a Judge of a High Court under article 217.".

STATEMENT OF OBJECTS AND REASONS

Our Constitution contains various safeguards to ensure the independence of Judges when they are in office. But the procedure which is actually followed for the appointment of judges is far from satisfactory. In actual practice, the Chief Minister of a State plays an important role in such appointments. In fact, on the 7th March, 1969, Shri Y. B. Chavan, the then Home Minister, stated in Parliament that the Chief Minister plays an important role in the appointment of Judges. This is not in keeping with the spirit of the Constitution as envisaged in article 217 of the Constitution which only lays down that the appointment shall be made by the President after consultation with the Chief Justice of India and the Governor of the State. It nowhere mentions the name of the Chief Minister. Even the Law Commission in its report has commented upon the unsatisfactory procedure which is actually followed for the appointment of Judges. The Chief Minister of a State should not be allowed to take part in any manner whatsoever in matters relating to the appointment of a High Court Judge. This would ensure the independence of the Judiciary which is the sole defender of democracy and enforces the Rule of Law. With this object in view, it is necessary to effect an amendment in article 163 of the Constitution.

Hence this Bill.

NEW DELHI;
The 15th July, 1970.

OM PRAKASH TYAGI.

BILL No. 85 OF 1970.

A Bill to provide for the utilization of land adjoining railway track on both sides for agricultural purposes.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Utilization of Land Adjoining Railway Track Act, 1970.

(*2*) It shall come into force at once.

Utilization of land adjoining railway track.

2. The land lying vacant on both sides of the railway track in the whole of India shall be utilized for agricultural purposes :

Provided that three feet of land consolidated with earth on both sides of the railway track for its protection shall be left vacant.

Lease of land on both sides of the railway track for agricultural purposes.

3. The entire railway land, save three feet of land on both sides of the railway track, shall be leased for twenty years, in the first instance, for agricultural purposes to the farmers owning land adjoining to the railway land and all such farmers shall pay to the railway administration lease money for the leased land on the rates prescribed under the rules to be framed in this behalf by the railway administration.

Right of railway administration to utilize the leased land.

4. The railway administration shall have a right to take earth from the land adjoining the railway track or bridge for their repairs etc. and shall be entitled to use the minimum required such land till the completion of the work, and for such use the concerned lessee shall be given due remission in lease money or paid due compensation therefor.

Right of railway administration to withdraw the leased land.

5. The railway administration shall also have the right to take back the minimum required land out of the adjoining land so leased to the farmers, for the extension of railway track or railway bridge etc. and the terms and conditions of the lease shall not stand in the way:

Provided that the railway administration shall pay compensation to the concerned farmer for his standing crop or for any other loss sustained by him as a result of such withdrawal of leased land and the amount of such compensation shall be assessed according to the general rules governing payment of compensation.

Planting or cutting of trees

6. The lessee shall have to obtain prior permission from the railway administration for cutting any tree standing in the leased land or to plant a tree there which shall be governed by the terms and conditions to be laid down in this behalf.

Framing of rules and setting up of machinery to regulate lease of land.

7. The railway administration shall frame appropriate rules and set up a suitable machinery to regulate the lease of land adjoining railway track to the farmers, to lay down the terms and conditions of lease, to realise the lease money and all other matters connected therewith.

Drainage.

8. The railway administration shall ensure digging of minor drains all along the three feet land left vacant under section 2 on both sides of the railway track for draining water, and the earth required for carrying out minor repairs to the railway track shall be dug out from the said drains in accordance with the rules to be laid down in this behalf.

Settlement of disputes.

9. All disputes arising in respect of the leased land shall be referred for settlement to the nearest court of law.

Lease of land to a farmer other than the adjoining land owner.

10. In case a farmer owning land adjoining the railway land refuses to take the railway land on lease, it may be leased to any other farmer owning land adjoining the land of the farmer so refusing the lease and the farmer refusing the lease shall have to provide a passage, if necessary, to the farmer accepting the lease.

STATEMENT OF OBJECTS AND REASONS

The land on both sides of the railway track throughout the length and breadth of the country, left vacant by the railway administration for the purpose of digging earth required for the consolidation of railway track and railway bridges and extension of railway lines and railway bridges, runs into lakhs of acres. The said land is neither brought under cultivation nor put to any other use except for digging out earth only occasionally and there is no likelihood of the utilisation of the land for extension of railway tracks.

The country has been facing acute shortage of food and, therefore, it is imperative that the entire fertile land is utilized for growing foodgrains. If the land lying vacant on both sides of the railway track is brought under the plough, there will be no shortage of foodgrains in the country and the country will be saved of the foreign exchange drain on account of food imports.

Besides, heavy damage is caused every year to the railway track and the agricultural fields by the floods. To avoid this damage, it is necessary to provide small drains along the railway track to drain out the rain-water and if these drains are full of water, the same may be utilized for irrigating the nearby fields later on and earth may be taken from these drains to carry out minor repairs to railway track and bridges, as and when needed.

It is proposed to lease the said land to the farmers owning the adjoining land so that they may gainfully utilize the land so leased alongwith their own land and the railway administration may earn some revenue in the form of lease-money, which may be utilized on other nation-building works.

Hence this Bill.

NEW DELHI; RAGHUVIR SINGH SHASTRI.

The 22nd July, 1970.

FINANCIAL MEMORANDUM

Clause 8 of the Bill seeks to provide for drains all along the railway track. The revenue likely to be collected as lease-money would far offset the expenditure on this account. However, the amount of recurring and non-recurring expenditure likely to be involved originally from the Consolidated Fund of India on account of drains cannot be estimated at present.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the railway administration to frame rules to regulate the lease of land lying vacant on both sides of railway track, to realise the lease-money, to provide for drains, etc. These are matters of detail and the delegation of legislative powers is of general nature and normal character.

BILL No. 83 OF 1970.

A Bill further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1970.

(*2*) It shall come into force at once.

Amendment of Section 488.

2. In section 488 of the Code of Criminal Procedure, 1898, after sub-section (8), the following sub-sections shall be inserted, namely:— 5 of 1898.

"(9) The court in dealing with applications under this section shall resort to summary trial and ensure expeditious disposal within a period not exceeding six months from the date of application.

(10) If a party to the suit is not satisfied with the order passed by the Magistrate, he or she will have the right to appeal to the Court of Session, which will decide the case within a period not exceeding three months from the date of appeal, after hearing both the parties.

(11) The appeal against the orders of the Court of Session will be to the High Court which will pronounce their judgment within a period not exceeding three months from the date of application, after hearing both the parties.

(12) No husband shall escape liability to maintain his wife, if he has failed to maintain or look after her properly for sufficient period or has failed in obtaining a decree for restitution of conjugal rights or is unable to prove that he made genuine and sincere efforts to keep his wife properly and to bring her back after assuring to keep and treat her well.

(13) Pending decision, the court may order the husband to pay some subsistance allowance not less than fifty rupees per month to the neglected wife to enable her to make both ends meet and to incur the expenses in connection with court proceedings on her application.".

STATEMENT OF OBJECTS AND REASONS

Section 488 of the Code of Criminal Procedure, 1898 provides for maintenance of wives and children who are neglected or refused maintenance by their husbands or fathers. The section does not provide for a limit of period within which a court must decide the case, with the result that the cases under this section also, like other cases under the civil law, take years to decide, and the neglected wives or children having no means of maintenance, have to suffer agonies for long.

2. Moreover, no appeal against the order of the Magistrate lies, which itself creates an anomalous position. The existing provision of revision is not sufficient and the aggrieved party has to approach two courts for setting aside an order of Magistrate. How strange is the position that a Court of Session cannot set aside an order passed by a lower court!

3. The existing provision does not contain conditions necessary for the husband to fulfill before seeking escape from his liability to maintain his wife.

4. The Bill seeks to achieve the above objectives.

RAGHUVIR SINGH SHASTRI.

NEW DELHI;
The 22nd July, 1970.

BILL NO. 82 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. In the Third Schedule to the Constitution, in Forms I, II, III A and B, IV, V, VI, VII A and B, VIII, the words "swear in the name of God" shall be omitted. Amendment of Third Schedule.

STATEMENT OF OBJECTS AND REASONS

In this era when man has landed on the moon, to swear in the name of God, be it for Constitutional purposes or other purposes, is glaringly unscientific. Hence this Bill.

SHIVA CHANDRA JHA.

NEW DELHI;
The 25th July, 1970.

BILL No. 79 OF 1970.

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1970.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 74.

2. In article 74 of the Constitution, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—In this article, the expression "aid and advise" shall not empower or entitle the Prime Minister to aid or advise the President in matters relating to the appointment of a Judge of the Supreme Court under article 124.".

STATEMENT OF OBJECTS AND REASONS

Our Constitution contains various safeguards to ensure the independence of Judges when they are in office. Article 124 of the Constitution lays down that every Judge of the Supreme Court shall be appointed by the President after consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary and in case of appointment of a Judge other than the Chief Justice, the Chief Justice of India shall always be consulted. However, in actual practice, in matters relating to the appointment of a Supreme Court Judge the Prime Minister plays an important role. Provision for consultation or for taking advice of the Prime Minister is not provided in article 124 of the Constitution. The spirit of the Constitution is to provide an independent Union Judiciary for the country but the present procedure cannot be considered as satisfactory. With this object in view, it is necessary to insert an explanation to article 74 of the Constitution. The proposed amendment is, therefore, necessary for ensuring and strengthening judicial independence which is absolutely necessary for enforcing the rule of Law.

Hence this Bill.

NEW DELHI;
The 27th July, 1970.

OM PRAKASH TYAGI.

BILL NO. 86 OF 1970

A Bill to regulate the procedure of early consideration and passage of Legislative proposals of Members of Parliament.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Members of Parliament Legislative Proposals Act, 1970.

(*2*) It shall come into force at once.

Constitution of Bills Committee.

2. (*1*) **Every Bill given notice of by a Member of Parliament shall stand referred, on introduction, to a Standing Bills Committee to be constituted for the purpose of consideration, making suitable improvements and recommendations to the Ministry concerned and Parliament with regard to the contents of such Bill.**

(*2*) The Standing Bills Committee shall consist of twenty-four members, sixteen from Lok Sabha and eight from Rajya Sabha, to be elected by the two Houses in the manner specified in their respective Rules of Procedure in regard to election to the Parliamentary Committees.

(3) The Minister of Law shall be the *ex-officio* member of the Bills Committee in addition to the twenty-four elected members and shall enjoy the same privileges and rights as enjoyed by the elected members:

Provided that the Minister of Law shall not be nominated as Chairman of the Committee.

(4) The Speaker of Lok Sabha shall appoint one of the elected members to act as Chairman of the Bills Committee.

Ministries to take action on the recommendations of the Committee.

3. The Ministries concerned shall immediately take suitable action in the light of the Bills and the recommendations of the Bills Committee thereon for giving effect to the ideas or proposals contained in such Bills by either accepting the Bills without or with suitable amendments or by bringing forward Official Bills embodying the basic concept behind such Bills.

Consideration by and passage in Parliament.

4. Such of the Bills as are recommended for consideration by the Bills Committee will be taken up for consideration and passage in Lok Sabha/Rajya Sabha not later than one year of their introduction and within three months of such recommendation, and sent to the other House for consideration, passage and return within a period not exceeding three months.

Framing of Rules under this Act.

5. The Speaker of Lok Sabha shall prescribe, after consultation with the Chairman of Rajya Sabha, such rules consistent with the provisions of this Act, as he may deem fit for the conduct of business in the Bills Committee and for the enforcement of this Act.

Overriding effect of Act.

6. The provisions of this Act or rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law or rules made thereunder.

STATEMENT OF OBJECTS AND REASONS

At present most of the Bills given notice of and introduced by Private Members lapse even before being considered at all after the expiry of a Member's tenure or dissolution of Lok Sabha, thus making infructuous the efforts of Members of Parliament to bring valuable legislative proposals and frustrating the very concept of Private Members' Bills.

The Bill seeks to provide for constitution of a Standing Bills Committee to consider, improve and report on Private Members' Bills and recommend to Parliament their passage or to ask Government to bring forward official Bills based on the purport and basic concept of the Bills, thus avoiding the lapse of Private Members' Bills containing valuable legislative proposals.

NEW DELHI;
Hence the Bill

RAGHUVIR SINGH SHASTRI.

The 27th July, 1970.

FINANCIAL MEMORANDUM

The Bill seeks the constitution of a Parliamentary Standing Bills Committee, which would involve expenditure out of the Consolidated Fund of India. The recurring expenditure involved is likely not be exceed five lakh rupees annually. There is likely to be no non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill seeks to provide for a Standing Bills Committee for consideration, improving and recommending Bills by Members of Parliament, which will require framing of rules for the conduct of business in the Committee and for the enforcement of the Act. As these rules will be almost identical to the rules framed for other Parliamentary Committees, the delegation of legislative power is of a general and formal character.

BILL No. 73 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1970.

Insertion of new article 16A.

2. After article 16 of the Constitution, the following new article shall be inserted, namely:—

"16A. (*1*) All citizens shall have the right to work and shall be entitled to adequate means of livelihood.

(*2*) Failing to procure such means as referred to in clause (1), every citizen shall be entitled to an unemployment allowance to be paid by the State."

STATEMENT OF OBJECTS AND REASONS

Article 39 of the Constitution states among other things "The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;"

The focal point of the State activity, in the economic sphere ought to have been the achievement of this objective. Whereas enough lip sympathy has been showered on those condemned to remain unemployed, the measures taken to combat unemployment have proved far from effective Unemployment has become everyones birth right in Swaraj. Nothing can shake our people's faith in the democratic system than the nation's failure to provide employment to all able bodied citizens. Failing this, the minimum the State should do, is to provide for unemployment insurance.

The Bill seeks to provide this.

NEW DELHI; NATH PAI.
The 29th June, 1970.

FINANCIAL MEMORANDUM

There are more than 5 million unemployed in the country. They should get a minimum subsistence allowance of five rupees per day. It is estimated that this will involve an annual recurring expenditure of about nine hundred crores of rupees. The share of the Union Government will be about one hundred crores of rupees, the rest being borne by the State Governments, the Public sector, the Private sector and local self-Government bodies.

BILL No. 80 OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1970.

Substitution of article 370.

2. For article 370 of the Constitution, the following article shall be, and shall be deemed always to have been, substituted, namely:—

"370. (*1*) Notwithstanding anything in this Constitution the power of Parliament to make laws for the State of Jammu and Kashmir shall be limited to—

(*i*) the matters in the Union List; and

(*ii*) such other matters in the concurrent and State Lists as, with the concurrence of the Government of the State, the President may by order specify.

Explanation.—For the purposes of this article, the Government of the State means the Governor of Jammu and Kashmir acting on the advice of the Council of Ministers of the State for the time being in office.

(*2*) This article shall cease to be operative from the 26th January, 1972.".

STATEMENT OF OBJECTS AND REASONS

The special status of the State of Jammu and Kashmir being maintained even after more than 20 years of the commencement of the Constitution is an anachronism which must be discarded now. The general legislative competence of Parliament should not be dependent on the sweet-will of the State so far as matters included in the Union List are concerned. The present article 370 impinges on the sovereignty of Parliament. It is, therefore, necessary that the power of Parliament to legislate on matters included in the Union List must be restored immediately. In any case the special position enjoyed by the State of Jammu and Kashmir must be ended by the 26th January, 1972.

Hence this Bill.

YASHWANT SINGH KUSHWAH.

NEW DELHI;
The 28th July, 1970.

S. L. SHAKDHER,
Secretary.

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